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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/652,620	09/02/2003	Jack A. Marmorstein	028788.0102-US00	1037

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COVINGTON & BURLING, LLP  
ATTN: PATENT DOCKETING  
1201 PENNSYLVANIA AVENUE, N.W.  
WASHINGTON, DC 20004-2401

EXAMINER
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MOSSER, KATHLEEN MICHELE

ART UNIT	PAPER NUMBER
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3714

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/28/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

## Office Action Summary

Application No.

10/652,620

Applicant(s)

MARMORSTEIN ET AL.

Examiner

Kathleen Mosser

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 08 December 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 93-140 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 93-98, 105-122 and 129-140 is/are rejected.
- 7) ☒ Claim(s) 99-104 and 123-128 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3714

### **DETAILED ACTION**

In response to the amendment dated 12/08/2006 claims 1-92 have been cancelled; claims 93-140 are pending.

#### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/08/2006 has been entered.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

1. Claims 105-116 and 129-140 are rejected under 35 U.S.C. 101 because they are directed to non-statutory subject matter. With regards to claim 105, the pre-amble of the claim recites "a machine-readable medium" which is analogous to a computer readable medium. In paragraph 63 of the specification as originally filed computer readable mediums are disclosed as including "signals". Given this disclosure, the claims may be reasonably interpreted to read on an electro-magnetic signal, which are non-statutory per se. With respect to claim 129, the system claim is recited in a plurality of means plus function steps. In paragraph 65 of the specification as originally filed the means for performing the recited functions are disclosed as including purely software. Thus the claims may be reasonable interpreted to read on a computer program, which is per se non-statutory. In both instances, although statutory embodiments are disclosed, the broadest reasonable interpretation of the claims includes non-statutory embodiments, and thus a rejection of the claims is proper.

#### ***Claim Objections***

Art Unit: 3714

2. Claim 116 is objected to because of the following informalities: Claim 116 refers to the method of claim 108. However, claim 108 is directed to a machine-readable medium. This appears to be a typographical error. Appropriate correction is required.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 93-98, 105-110, 117-122 and 129-134 are rejected under 35 U.S.C. 102(b) as being anticipated by Figart (US 6164971). Figart teaches a computer system, components and method including: accessing data related to an event (accessing a scenario, col. 10: 64-66); providing a selection to solicit a user selection of a first description perspective of the even, wherein the first description perspective is one of a perspective of a first individual in the event or a perspective of a second individual in the even, and receiving the selection (requesting the user to select the role to play, col. 11: 32-36); presenting the event based on the accessed data; and presenting a first description of the even according to the user selection of the first description perspective of the event (playing of the scenario, col. 3: 14-40), as in claims 93, 95 105, 107, 117, 119, 129 and 131. The use of audio and/or visual information (claim 94, 95, 97, 106, 107, 109, 118, 119, 121, 130, 131 and 133) is shown in at least col. 10: 50-54). The steps of: providing a selection to solicit a user selection of a second description perspective of the event, wherein the second description perspective is different from the first description perspective, receiving the user selection of the second description perspective of the event; and presenting a second description of the event according to the user selection of the second description of the event, wherein the first description and the second description are in the same language (claims 96, 108, 120, and 132), is interpreted as the ability for a second user to select another role to play in the scenario, see at least col. 3: 17-21. Synchronization of the first and second perspective descriptions (claims 98, 110, 121 and 134)

Art Unit: 3714

is shown in the fact that the scenario is played at the same time to all the participants; see Example B, starting at col. 5: 25.

#### ***Allowable Subject Matter***


4. Claims 99-104, 111-116, 123-128, 135-140 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and were to overcome any rejections under 35 USC §101, where applicable.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathleen Mosser whose telephone number is (571) 272-4435. The examiner can normally be reached on M-F 8:00-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Pezzuto can be reached on (571) 272-6696. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Kathleen Mosser  
Primary Examiner  
Art Unit 3714

March 19, 2007